



# NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

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## MBA PROFESSIONAL REPORT

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**Analysis of the Death Gratuity Program:  
History, Current Issues and Future Implications**

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**By: Ammin K. Spencer  
December 2005**

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**ANALYSIS OF THE DEATH GRATUITY PROGRAM: HISTORY, CURRENT  
ISSUES, AND FUTURE IMPLICATIONS**

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## **ABSTRACT**

The purpose of this project is to analyze the most recent changes to the death gratuity program under Public Law 109-13. Specifically, the project reviews the initiation of the death gratuity program as well as the changes during the program's history. It also analyzes the various issues that influenced the enactment of Public Law 109-13 and the implications that have occurred as a result of it. In addition to the death gratuity, there are also a number of other benefits available to families and beneficiaries upon the death of a servicemember. An entire chapter is dedicated to covering these other benefits. Finally, this project analyzes an alternative method of funding the death gratuity program and presents the advantages and drawbacks of such an alternative.

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## **I. INTRODUCTION**

### **A. PURPOSE**

The primary purpose of this research project is to analyze the historical and recent changes to the death gratuity program in order to understand the future social and fiscal implications of these changes. This project will also analyze the various ways the Global War on Terrorism and other concerns have influenced the death gratuity program and what changes to the program have resulted from these influences.

### **B. BACKGROUND**

The world scene was dramatically and forever changed after the deplorable and tragic events of 11 September 2001. The United States was soon deploying troops around the world in a new war termed the Global War on Terrorism (GWOT). When the military began to suffer casualties, the nation was abruptly reminded of the sacrifices and human costs associated with war. As a result, the nation's attention was subsequently focused on how the survivors of fallen servicemembers<sup>1</sup> are compensated. One significant aspect of that compensation is the death gratuity program.

Most of the historical changes to the death gratuity program have been primarily due to the United States' immediate involvement in war. As a result of the GWOT, the death gratuity program has again come into the national and political spotlight and has undergone legislative changes as a result. While changes to the program are not new, the most recent legislative changes have been, perhaps, the most controversial in the program's history.

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<sup>1</sup> For the purposes of this project, "servicemember," vice "service member" or "service-member," is being utilized in order to provide consistency and uniformity with its usage in existing government literature and programs; such as the Servicemembers' Group Life Insurance program..

## **C. RESEARCH QUESTIONS**

The following questions were used to direct and focus the research into this project.

1. What is the death gratuity program?
2. How has the program developed and changed over the years?
3. What are the political and financial issues relating to these changes?
4. How were the financial decisions made?
5. What are the short and long-term implications of these changes?

## **D. METHODOLOGY**

This project research utilized sources such as newspaper and journal articles, proposed and signed legislative bills, Government Accountability Office reports, Congressional Budget Office reports, Department of Defense background papers, and federal budget databases. The primary method of obtaining these sources was through internet search engines, periodical databases, and government website search functions.

A significant amount of research was also conducted via phone and email interviews with various individuals and staff members with specific knowledge and insight into the death gratuity program.

## **E. SCOPE AND LIMITATIONS**

### **1. Scope**

This project specifically analyzes the recent changes in the death gratuity program with respect to the program's background and history. First the project analyzes the potential factors that influenced recent changes in the program and then analyzes the potential implications of these changes. This project also provides an alternative method of funding the death gratuity program, as well as a summarized compilation of all death benefits available to families and beneficiaries.



## **2. Limitations**

The primary limitation to this project is that it does not address the adequacy of the current death gratuity amount, nor does it make a recommendation to either increase or reduce it. In addition to the incredibly difficult and complex task of determining what single death gratuity figure is appropriate for the surviving family members, each of which are in varying financial circumstances, the most recent change proposal to the death gratuity has been signed into law. Therefore, there was little benefit seen in making a proposal to that affect at this time.

## **F. BENEFITS OF THE STUDY**

The first potential benefit of this study is the identification of various unintended problems associated with the implementation of the most recent changes to the death gratuity program. While the purpose of the death gratuity is to provide for the surviving families of fallen servicemembers, the way in which the program has been administered has had unintended consequences.

The second benefit of this study is an alternative proposal to funding the death gratuity program. The proposal in this project presents a more cost effective method of providing the same benefits to beneficiaries while doing so at a reduced expense to the government.

Finally, this project provides a compilation of all entitled benefits available to families and beneficiaries upon the death of a servicemember. This information could be equally beneficial and informative for servicemembers and their families as well as for military leaders in counseling and informing their juniors.

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## **II. THE DEATH GRATUITY PROGRAM**

### **A. INTRODUCTION**

The purpose of this chapter is to provide a basic overview of the death gratuity program by analyzing the program's establishment, historic changes, recent legislative proposals, and the most recent change signed into law. These primary categories will provide a basic understanding of what the program is, what it does, and how its administration and purpose has developed. A basic overview of the program is necessary to understand and appreciate the concepts presented in following chapters.

### **B. PROGRAM ESTABLISHMENT: 11 MAY 1908**

The death gratuity program was first established in 1908. Prior to the establishment of the program, survivors and dependents of military members were essentially left financially unprotected in the event of the death of their military service member. At that time, the government had not yet established any form of a life insurance program. Service members also found it extremely difficult, if not impossible, to obtain commercial life insurance because most firms had hazardous duty clause in their policies which excluded most, if not all, service members. Additionally, most military service members could not afford policies that did admit military members due to the relatively low military pay at that time.

The death gratuity program consisted of a payment equal to six months of pay for survivors of regular military members. The Act of May 11, 1908 (Army Appropriation Act, 1909) appropriated funds for survivors of Regular Army personnel. The Act of May 13, 1908 (Naval Service Appropriation Act, 1909) appropriated funds for survivors of Regular Navy and Marine Corps personnel.<sup>2</sup> The initial intent of the program was to provide financial coverage for survivors due to the absence of adequate life insurance security.

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<sup>2</sup> Office of the Secretary of Defense, "Compensation Elements and Related Manpower Cost Items. Their Purposes and Legislative Backgrounds," *Military Compensation Background Papers*, 5<sup>th</sup> Ed., 1996, Chapter 3, Subsection D.

### **C. CHANGES TO THE PROGRAM: OCTOBER 1917 TO JANUARY 2005**

The death gratuity has experienced a number of changes and transitions since its inception. The first change came in 1917 as the United States became heavily involved in Europe during World War I. The Act of October 6, 1917 (War Risk Insurance Act of 1917) actually repealed the death gratuity laws of 1908 for Army, Navy, and Marine personnel while simultaneously creating a government life insurance program.

After the end of World War I, the death gratuity came to the political forefront when a proposal to reinstate the program was introduced on the House floor in early 1919. As is typical with sensitive legislation of this nature, the proposal “touched off a spirited debate.”<sup>3</sup> The supporters of the proposal argued that the original death gratuity law was in essence a contract with military service members and the government had violated this contract when the law was repealed. The opponents of the proposal argued that the original death gratuity law was only necessary while life insurance was not available to service members, and since the government life insurance policy remained in effect, the death gratuity was no longer necessary. Additional controversy also developed over the debate whether to extend the policy to reserve members and whether the award amount should continue to be pay-based or based on a flat rate for everyone. Almost a year later the bill was passed and the death gratuity was once again implemented under the same conditions as the initial legislation—the payment was based on six months of pay and only eligible for regular members.

The death gratuity remained unchanged for nearly twenty years. However, the Act of June 20, 1949 made a significant and long over-due addition to the 1919 legislation when it extended eligibility to reservists and National Guard members as well, so long as they were on an active duty or training status at the time of death. This was only a small part of a much broader piece of legislation that extended nearly all the regular member benefits to reservists and National Guard members. Unlike the 1919 legislation, the 1949 legislation passed without any opposition or debate.

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<sup>3</sup> Office of the Secretary of Defense, “Compensation Elements and Related Manpower Cost Items. Their Purposes and Legislative Backgrounds,” *Military Compensation Background Papers*, 5<sup>th</sup> Ed., 1996, Chapter 3, Subsection D.

In 1956 Congress again addressed the death gratuity program. Under the current award amount based on six months of pay, there was significant variation between service members. For example, in 1956 six months of pay for a private was \$648 while six months of pay for a general was \$8648. “The Committee concluded that the amounts payable were too small to adequately serve an emergency-fund purpose for the survivors of lower-pay-grade personnel and so large as to be excessive in the case of survivors of personnel nearer the top of the pay scale.”<sup>4</sup> As a result, Congress passed H.R. 7089 which placed an \$800 floor and a \$3000 ceiling on all payments. This was the first legislation that had deviated from the original principles of the death gratuity program.

Thirty years later Congress again inquired into the death gratuity program. In 1986 the Senate Armed Services Committee noted that the payment rates had not changed since 1956. Due to pay increases during this time period, all service members now qualified for the \$3000 ceiling imposed by the 1956 law. “The President’s Fifth Quadrennial Review of Military Compensation recommended that the death gratuity be updated to better meet the needs of survivors of military personnel.”<sup>5</sup> The Armed Services Committee agreed, and Senate bill S. 2638 was introduced. The proposal changed the 1956 law by establishing a payment based on three months of basic pay, basic allowance for sustenance, and basic allowance for quarters, with a \$3000 floor and a \$9000 ceiling. Despite the findings of the Senate Armed Services Committee and the recommendations of the President’s QDR, the proposal was rejected by Congress when it went to conference. The justification for the rejection was based upon the notion that “although the death gratuity was established in 1908, the military estate program has been expanded to include social security benefits, dependency and indemnity compensation, and Servicemembers’ Group Life Insurance (SGLI). The maximum SGLI payment was

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<sup>4</sup> Office of the Secretary of Defense, “Compensation Elements and Related Manpower Cost Items. Their Purposes and Legislative Backgrounds,” *Military Compensation Background Papers*, 5<sup>th</sup> Ed., 1996, Chapter 3, Subsection D.

<sup>5</sup> Ibid.

recently increased to \$50,000.”<sup>6</sup> The inference from this justification was that Congress deemed the current death gratuity payment to be sufficient when taken in total with the other survivor benefits and payments.

Similar to the circumstances that led to the legislation of 1917, Congress was again prompted by war to address the death gratuity program in 1991. Under the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Congress temporarily increased the death gratuity payment from \$3000 to \$6000 to cover service members who died during the conflict and up to 180 days after the end of the conflict. Later that year, the \$6000 payment was made permanent.

Most recently, the death gratuity has again drawn Congressional attention due to the nation’s involvement in war. In response to the military involvement in Operation Iraqi Freedom, Operation Enduring Freedom, and elsewhere in the Global War on Terrorism (GWOT), Congress passed H.R. 1588 under the National Defense Authorization Act of FY04 which increased the death gratuity from \$6000 to \$12,000, retroactive to September, 2001. The resolution also included provisions for increasing the payment concurrent with pay increases and making the entire amount tax-free, as opposed to prior legislation where half the gratuity was taxable.<sup>7</sup> As of 1 January 2005 the death gratuity payment was \$12,420 after an automatic 3.5 percent increase, which correlated with basic pay increases.

#### **D. RECENT LEGISLATIVE PROPOSALS: JANUARY TO MAY 2005**

As the campaign in Iraq continued to produce more military casualties, the national attention again turned to the death gratuity. Since January 2005 there has been significant media coverage about the death gratuity and other survivor benefits and their ability to adequately compensate the survivors after the death of a servicemember. The questions being raised were difficult and very sensitive ones to address. The predominant

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<sup>6</sup> Office of the Secretary of Defense, “Compensation Elements and Related Manpower Cost Items. Their Purposes and Legislative Backgrounds,” *Military Compensation Background Papers*, 5<sup>th</sup> Ed., 1996, Chapter 3, Subsection D.

<sup>7</sup> James Barron, “For Families of Fallen Soldiers, The 2<sup>nd</sup> Knock Brings \$12,000,” *The New York Times*, 26 Jan. 2005: A1.

question was how much compensation should be awarded to the survivors? As is the case with any death, no monetary amount could ever truly compensate for the loss of life. This further complicated the dilemma of determining an amount that is suitable and fair for the survivors and the government alike.

Congress addressed this issue by proposing the largest increase in the history of the death gratuity program. The Senate proposed four separate bills to increase the death gratuity amount while the House of Representatives proposed five. All of the bills contained similar verbiage, and most of the bills had numerous supporters. For example, all of the proposed bills increased the death gratuity amount to \$100,000, were retroactive in nature, and boasted 24 and 235 cosponsors with S. 77 and H.R. 292, respectively. Table 1 summarizes the key information found in the nine proposed pieces of legislation.

| <u>Bill Number</u> | <u>Date Introduced</u> | <u>Sponsor</u>        | <u>Co-Sponsors</u> | <u>Amount</u> | <u>Retroactive Date</u> | <u>Funding Source</u>      | <u>Combat Stipulation</u> |
|--------------------|------------------------|-----------------------|--------------------|---------------|-------------------------|----------------------------|---------------------------|
| S. 42              | 24 January, 2005       | Sen George Allen      | 7                  | \$ 100,000    | 1 October, 2001         | None Identified            | No                        |
| S. 44              | 24 January, 2005       | Sen Chuck Hagel       | 8                  | \$ 100,000    | 16 November, 2001       | Emergency Supplemental     | No                        |
| S. 77              | 24 January, 2005       | Sen Jeff Sessions     | 24                 | \$ 100,000    | 7 October, 2001         | None Identified            | Yes                       |
| S. 121             | 24 January, 2005       | Sen Mike DeWine       | 10                 | \$ 100,000    | 1 October, 2001         | None Identified            | No                        |
| H.R. 292           | 20 January, 2005       | Rep Spencer Bachus    | 235                | \$ 100,000    | 11 September, 2001      | Operations and Maintenance | No                        |
| H.R. 377           | 26 January, 2005       | Rep Terry Everett     | 60                 | \$ 100,000    | 7 October, 2001         | None Identified            | Yes                       |
| H.R. 447           | 1 February, 2005       | Rep Marsha Blackburn  | 1                  | \$ 100,000    | 1 October, 2001         | None Identified            | No                        |
| H.R. 502           | 1 February, 2005       | Rep Christopher Smith | None               | \$ 100,000    | 1 October, 2000         | None Identified            | No                        |
| H.R. 832           | 15 February, 2005      | Rep Maxine Waters     | None               | \$ 100,000    | 1 August, 1990          | None Identified            | No                        |

Table 1. Death Gratuity Legislative Proposals

The two significant differences among the proposed bills were the retroactive dates and the stipulated conditions under which the servicemember dies. Most of the bills contain retroactive dates between September to November 2001, coinciding with the 11 September 2001 attacks and the initial military engagements that followed during Operation Enduring Freedom in Afghanistan. However, H.R. 832 proposed the most significant retroactive date back to August 1, 1990, coinciding with Operations Desert Shield and Desert Storm. Differences between the conditions of death for the

servicemember varied from simply being on active duty status to stipulations that the death must result from “combat-related causes or causes incurred in designated operations or areas” as stated in S. 77.<sup>8</sup>

#### **E. THE ENACTMENT OF PUBLIC LAW 109-13: 11 MAY 2005**

On 11 May 2005, President Bush signed H.R. 1268 into law as Public Law 109-13, titled *Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005*. While the provisions and changes to the death gratuity program were only one very small facet of H.R. 1268, they were nearly identical to the provisions made by proposed bills S. 77 and H.R. 377, both proposed in January, 2005. Because H.R. 1268 was the umbrella proposal for dozens of different emergency supplemental categories, S. 77 and H.R. 1268 were most likely a significant influence on the segment of H.R. 1268 pertaining specifically to the death gratuity program.

Public Law 109-13 made three specific changes to the death gratuity program. The first change was an increase in the gratuity amount from \$12,000 to \$100,000. Eligible beneficiaries were now paid \$100,000 upon the death of their servicemember, based upon the stipulations identified in the next paragraph.

The second change to the program made very specific stipulations about who was eligible for the increased benefit. Under Public Law 109-13, the \$100,000 death gratuity is payable “in the case of a death resulting from wounds, injuries, or illnesses that are— (1) incurred as described in section 1413a(e)(2) of this title (Title 10 United States Code); or (2) incurred in an operation or area designated as a combat operation or a combat zone, respectively, by the Secretary of Defense.”<sup>9</sup> Title 10 United States Code (U.S.C.) Section 1413a(e)(2) provides the following definition of what is considered combat-related; “(A) as a direct result of armed conflict; (B) while engaged in hazardous service; (C) in the performance of duty under conditions simulating war; or (D) through an instrumentality

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<sup>8</sup> Senate Proposal S. 77, 109<sup>th</sup> Congress, 24 Jan. 2005.

<sup>9</sup> Public Law 109-13, Section 1013 (a), 11 May 2005.



of war.”<sup>10</sup> If the servicemember’s death does not meet any of these criteria, beneficiaries will be paid the standard amount of \$12,000. While the over eightfold benefit increase is the most significant increase in the history of the program, and would seemingly be the most controversial change to the program, the combat-related eligibility stipulation has actually proven to be the most contentious change to the program. This aspect will be addressed in greater detail in Chapter III.

The third change made to the death gratuity program is the retroactive payment date for servicemembers’ deaths which meet the combat-related criteria. All deaths occurring on or before 7 October 2001, and meeting the criteria, are eligible for the \$100,000 gratuity amount.

Perhaps one of the most interesting aspects of Public Law 109-13 is the termination date for the previously mentioned changes to the program. Specifically, “this section and the amendment made by this subsection shall terminate on September 30, 2005.”<sup>11</sup> However, any retroactive payments that had not yet been made by the termination date shall remain payable until paid in full.

As of 1 November 2005 two bills have been proposed, S. 1042 and H.R. 1258, to reinstate the death gratuity retroactive to 1 October 2005. The language in both pieces of legislation is nearly identical to the language in Public Law 109-13. Therefore, for the purposes of this project, the provisions made by Public Law 109-13 for the death gratuity program will assume to be continued in the future, under either one of the currently proposed bills.

## **F. SUMMARY**

This chapter has laid the foundation for the following chapters by provided an overview of the death gratuity program. Since its establishment, the program has undergone a number of changes, usually brought on by a recent engagement in warfare, and has been the subject of various debates. As the United States has engaged itself in

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<sup>10</sup> Title 10 United States Code, Section 1413a(e)(2).

<sup>11</sup> Public Law 109-13, Section 1013 (a), 11 May 2005.

the Global War on Terrorism, the death gratuity has again undergone recent changes and been the subject of scrutiny and intense debate. This chapter has also demonstrated that while the program is nearly 100 years old, the catalysts that affect these changes have, themselves, changed very little.

### **III. THE EFFECTS OF PUBLIC LAW 109-13 ON THE DEATH GRATUITY PROGRAM**

#### **A. INTRODUCTION**

The purpose of this chapter is to identify potential factors that influenced the changes in the death gratuity program under Public Law 109-13 and the effects it has had on the Department of Defense and the federal budget. This chapter will also analyze various issues that influenced Congress' decision to increase the death gratuity from \$12,000 to \$100,000. The purpose is not to speculate if \$100,000 is the appropriate amount for the death gratuity, but to simply examine how this amount was determined.

#### **B. FACTORS CONTRIBUTING TO THE CHANGE IN THE DEATH GRATUITY PROGRAM UNDER PUBLIC LAW 109-13**

##### **1. Misperceptions About the Program's Purpose**

The first potential factor contributing to the changes in the death gratuity program under Public Law 109-13 was a misperception about the purpose of the death gratuity program itself. As discussed in Chapter II, "the original purpose of the death gratuity was to help fill the financial gap resulting from" the lack of affordable life insurance available to service members.<sup>12</sup> After the government established an affordable life insurance program for service members, the death gratuity program remained in place despite a debate in Congress to repeal it.

After the introduction of an affordable life insurance program, the purpose of the death gratuity changed as well. The Secretary of Defense *Military Compensation Background Papers* state the purpose of the death gratuity program is "to provide an immediate cash payment to assist survivors of deceased members of the armed forces to meet their financial needs during the period immediately following a member's death and

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<sup>12</sup> Office of the Secretary of Defense, "Compensation Elements and Related Manpower Cost Items. Their Purposes and Legislative Backgrounds," *Military Compensation Background Papers*, 5<sup>th</sup> Ed., 1996, Chapter 3, Subsection D.

before other survivor benefits, if any, become available.”<sup>13</sup> Despite the stated change in the death gratuity’s purpose, a misperception about the purpose of the program persisted in Congress.

According to staff members on both the House and Senate Armed Services Committees, there was misperception among some members of Congress about the purpose of the death gratuity. They stated that some Congress members recognized the purpose and intent of the program and some did not.<sup>14</sup> The common misperception about the death gratuity was that it was viewed as the primary source of death-related compensation and not the bridge or temporary payment until other survivor benefits were made available.<sup>15</sup>

If this misperception about the purpose about the death gratuity persisted, the previous death gratuity of \$12,000 would certainly have appeared to be inadequate to provide substantial financial compensation to the families of deceased service members. However, if the death gratuity was viewed as it was intended, as a supplemental payment until other survivor benefits were made available, the \$12,000 gratuity might have appeared to be adequate and more appropriate for its intended purpose, thereby nullifying the need for an increase.

## **2. Government Accountability Office Report GAO-04-814, Military Personnel: Survivor Benefits for Servicemembers and Federal, State, and City Government Employees**

Another potential factor contributing to the changes in the death gratuity program under Public Law 109-13 was the impact of the GAO Report on the Survivor Benefits for Servicemembers and Federal, State, and City Government Employees. Since the beginning of the Global War on Terrorism, the citizens of the United States have been reminded almost daily of the ultimate sacrifice being made by many of the nation’s military service members. In light of this immense sacrifice, Congress became

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<sup>13</sup> Office of the Secretary of Defense, “Compensation Elements and Related Manpower Cost Items. Their Purposes and Legislative Backgrounds,” *Military Compensation Background Papers*, 5<sup>th</sup> Ed., 1996, Chapter 3, Subsection D.

<sup>14</sup> Refs. Staff Member, Senate Armed Services Committee, Phone Interview, 26 Aug. 2005., and Staff Member, House Armed Services Committee, Phone Interview, 7 Oct. 2005.

<sup>15</sup> Ibid.

increasingly concerned over the amount of compensation made to the survivors of fallen service members and charged the GAO with conducting an analysis and comparison of military death compensation with similar compensation of federal civilians and other high-risk occupations like firefighters and police. The GAO was asked to address the following two questions. “To what extent are the survivor benefits provided to servicemembers different from those provided to federal, state, and city government employees in general? To what extent do federal, state, and city governments supplement their general survivor benefits for high-risk occupations?”<sup>16</sup>

The GAO report gathered survivor benefit information from 61 civilian government entities, including the federal government, 50 states, the District of Columbia, and nine United States cities with a population of one million people or more. The report’s analysis included all forms of compensation, including Social Security, burial expenses, life insurance, and lump sum death gratuities. The GAO constructed four hypothetical situations “that each described servicemembers or civilian government employees who had identical years of creditable service, and equal amount of regular military compensation or civilian government salary, and the same number of dependents at the time of their deaths.”<sup>17</sup>

The four situations reflected a junior level enlisted member with and without dependents, a senior level enlisted member, and a mid-grade officer. The GAO published their findings on July 15, 2004 and found that

survivors of deceased servicemembers almost always obtain higher lump sums than do the survivors of the deceased employees from the 61 (analyzed) civilian government entities. The amount of recurring payments to deceased servicemembers’ survivors in three of the four situations exceeds those provided by the federal government, typically exceeds those provided by at least one-half of the states, but are typically less than those provided by over one-half the cities.<sup>18</sup>

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<sup>16</sup> Government Accountability Office, Report GAO-04-814, “Military Personnel: Survivor Benefits for Servicemembers and Federal, State, and City Government Employees,” Highlights.

<sup>17</sup> Ibid, p. 59.

<sup>18</sup> Ibid. Highlights.

The report also identified situations in certain civilian government agencies, at the federal, state, and city levels, where survivors of employees in high-risk positions received supplemental benefits higher than those benefits received by survivors of employees in non-high-risk positions in the same agencies. The result of these supplemental benefits for high-risk employees “can result in lump sum and recurring payments being generally higher for survivors of government employees in high-risk occupations than for servicemember’s survivors.”<sup>19</sup>

The GAO report made no recommendations as a result of their analysis, making it extremely difficult to determine whether or not they viewed the current compensation amounts for service members to be appropriate. Nonetheless, the GAO report did influence some members of Congress to vote for increasing the death gratuity to match what certain civilians in high-risk government positions received.<sup>20</sup> Senator George Allen of Virginia stated that the increased death gratuity amount of \$100,000 seemed appropriate “based on what he’s seen for firefighters and police officers, who he said often have death gratuities of \$50,000 or \$100,000,” indicative of the GAO report’s influence.<sup>21</sup>

### **3. The Public Influence**

The third potential factor that influenced Congress to increase the death gratuity is the influence of the public. Many of the fallen servicemembers in the Global War on Terrorism were the primary source of income for their families, and the resulting financial difficulty of these families is being made known. “Advocates for military families say that the public is now more aware of the sacrifices made by soldiers and their

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<sup>19</sup> Government Accountability Office, Report GAO-04-814, “Military Personnel: Survivor Benefits for Servicemembers and Federal, State, and City Government Employees,” Highlights.

<sup>20</sup> Staff Member, House Armed Services Committee, Phone Interview, 7 Oct. 2005.

<sup>21</sup> Stephen Dinan, “Senators seek rise in death payments,” *The WashingtonTimes*, 17 Jan. 2005: A01

families in fighting the war on terror” and that “the political concern has reflected growing public distress over the deaths, injuries and long hours of duty being endured by U.S. forces in Iraq.”<sup>22</sup>

For example, situations like that of Melissa Givens were being made public. Givens, the mother of a young son and pregnant with her second, had lost her husband, PFC Jesse Givens, in Iraq in 2003. Upon receiving word of her husband’s death she “immediately began wondering how she would make ends meet.”<sup>23</sup> She further said, “You take the breadwinner from the family, you send them off and they die, then who is going to support the children? I think our government should take better care of the children than they have.”<sup>24</sup>

Nationally circulated stories like these, bearing so much emotional concern for the families of the fallen servicemembers, can have significant influence politically. A staff member with the Assistant Secretary of the Navy, Financial Management and Comptroller, said that members of Congress were receiving “hard luck” letters from family members of fallen servicemembers, adding to the pressure for increased benefits.<sup>25</sup> In light of the ultimate significant sacrifice made by so many servicemembers and the impact it has had on their families, it would be extremely difficult for congress not to be influenced by an initiative with so much emotional power.

#### **4. Civilian Compensation of the 11 September 2001 Terrorist Attacks**

A fourth factor that potentially influenced changes in the death gratuity program was the payments made to the surviving family members of the 11 September 2001 attacks. For example, “the government paid an average \$2.1 million to the families of

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<sup>22</sup> Refs. Bradley Graham and Ann Scott Tyson, “Pentagon to Raise Death Benefits; Plan Could Double, to \$500,000, Pay for Combat Victims’ Survivors,” *The Washington Post*, 1 Feb. 2005: A01., and Gail Chaddock, “Why the sudden push for military benefits; A move to raise death pay for soldiers sets up clash between deficit constraints and Bush’s global aspirations,” *The Christian Science Monitor*, 3 Feb. 2005: 02.

<sup>23</sup> Tom Kenworthy, “GI widows struggle with finances; Say increase in ‘death gratuity’ would help with education expenses, bills,” *USA Today*, 8 Feb. 2005: A3.

<sup>24</sup> Ibid.

<sup>25</sup> Staff Member, Assistant Secretary of the Navy, Financial Management and Comptroller, Phone Interview, 22 Aug. 2005.

those killed in those attacks.”<sup>26</sup> In comparison, the \$12,000 received by families of servicemembers was merely a fraction of this amount.

Additional pressure to narrow the gap between compensation received by the 11 September survivors and the military survivors has come from various media outlets as well. A February 2005 newspaper article stated that “for months, however, talk radio hosts and editorial pages across the country have compared death gratuities to the payments to families of victims of the September 11, 2001, terrorist attacks.”<sup>27</sup> According to a staff member on the Senate Armed Services Committee, in light of these 11 September 2001 payments, Congress felt like it had to raise the amount of death gratuity for servicemembers.<sup>28</sup>

## **5. Personal Perceptions of Congressmen**

Another potential factor contributing to the change in the death gratuity program were the personal perceptions of the Congressmen themselves. The bipartisan sentiment in Congress has been the inadequacy of the death gratuity. For instance, Representative Steve Israel, a Democrat from Long Island, referring to the \$12,000 death gratuity, said, “Right now, it’s just a slap in the face.”<sup>29</sup> Senator George Allen, a Republican from Virginia, also said of the \$12,000 death gratuity, “Someone loses their life serving our country—it is a paltry, miserly and indeed, in my view, insulting amount.”<sup>30</sup>

While these views expressed dissatisfaction over the \$12,000 death gratuity, quantifying an appropriate figure seemed to be a difficult task. Senator Allen also stated, “In my view, there is no dollar amount that we owe them. How do you put a price on freedom and liberty? If you said \$500,000 or you said \$75,625, there is no way of

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<sup>26</sup> Robert Burns, “Bush to propose military death benefit of \$250,000,” *Deseret News*, 1 Feb. 2005: A01.

<sup>27</sup> Cory Reiss, “Action on death benefits worries some advocates,” *Sarasota Herald Tribune*, 6 Feb. 2005: A9.

<sup>28</sup> Staff Member, Senate Armed Services Committee, Phone Interview, 26 Aug. 2005.

<sup>29</sup> James Barron, A1.

<sup>30</sup> Tim Harper, “Pentagon attaches strings to hike in ‘death gratuity’; Controversial proposal would bring eightfold increase in payout but only when death comes in war zone,” *Toronto Star*, 6 Feb. 2005: A15.



quantifying it. It seemed to me to be an appropriate amount. It is understandable. It is a proper figure,” referring to the proposed death gratuity increase to \$100,000.<sup>31</sup>

These views and statements exhibit the general sentiment that the \$12,000 death gratuity was deemed inadequate, but also reveal the difficulty in determining and quantifying an appropriate alternative. While analysis and reports can place a price on benefit comparisons and fiscal outlays, “there is no price that you can put on human life, and no amount of money that can compensate for the loss of a loved one.”<sup>32</sup> This is the fundamental difficulty Congress faced in determining a change to the death gratuity program.

## **6. Influence of the Department of Defense**

Determining the level of influence the Department of Defense (DOD) had on Congress’ decision to change the death gratuity program primarily “depends on who you talk to.”<sup>33</sup> As with many politically-sensitive issues like the death gratuity program, the level of involvement in the decision-making process depends on the perspective of the stakeholder. For example, while a staff member on the Senate Armed Services Committee felt that the DOD had been consulted regarding the death gratuity program, a staff member with the Navy’s Financial Management and Comptroller felt that Congress had not consulted the DOD about changing the program.<sup>34</sup>

Regardless of the subjective nature of determining the DOD’s influence, there are two specific certainties that can be observed. First, the vice chiefs of the four services testified before the Senate Armed Services Committee about the proposed changes to the death gratuity program. Second, the service vice chiefs did not recommend that Congress include a combat-related stipulation for eligibility of the \$100,000 death gratuity.<sup>35</sup>

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<sup>31</sup> Stephen Dinan, “Senators seek rise in death payments,” *The Washington Times*, 17 Jan. 2005: A01.

<sup>32</sup> Graham and Tyson, A01.

<sup>33</sup> Staff Member, House Armed Services Committee, Phone Interview, 7 Oct. 2005.

<sup>34</sup> Staff Member, Assistant Secretary of the Navy, Financial Management and Comptroller, Phone Interview, 22 Aug. 2005.

<sup>35</sup> Bradley Graham, “Military Chiefs Criticize Curbs In Plan to Raise Death Benefits: Proposal Covers Only Designated War Zones,” *The Washington Post*, 2 Feb. 2005: A20.

These two certainties do not explain every facet of DOD's involvement, but they do provide an indication of how much the DOD was consulted in changing the death gratuity program.

As mentioned in the first paragraph of this section, perception depends on who one is talking to. Even within the DOD this holds true. While the service vice chiefs were making their testimony that the death gratuity should not differentiate between combat and non-combat deaths, Dr. David S. Chu, Undersecretary for Personnel and Readiness promoted the plan to make the death gratuity eligible primarily for those killed in combat in Afghanistan and Iraq.<sup>36</sup> Therefore, because of the *differing testimony* between the civilian and military leadership *within the DOD*, it is understandable to see how the perceived level of involvement by the DOD is dependent on the position of the individual stakeholder

## **C. ISSUES CREATED BY THE ESTABLISHMENT OF PUBLIC LAW 109-13**

### **1. Creation of Two Classes of Servicemembers**

One of the issues that has been created with the increase of the death gratuity is the creation of two classes of servicemembers—those in combat zones and those not. Under the provisions of Public Law 109-13, servicemembers are only eligible for the \$100,000 death gratuity if the death meets specific combat-related requirements, specified in section E. of Chapter II. “Military families and some uniformed officers accused the Pentagon of creating two classes of soldiers because the enhanced payouts would apply only to those who lost their lives in combat zones.”<sup>37</sup>

During testimony before the Senate Armed Services Committee, the service vice chiefs welcomed the rise in benefit payments, but were concerned that the plan was discriminatory because it created different death benefits based primarily where the deaths occur.<sup>38</sup> General William Nyland, Assistant Commandant of the Marine Corps,

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<sup>36</sup> Bradley Graham, A20.

<sup>37</sup> Harper, A15.

<sup>38</sup> Bradley Graham, “Military Chiefs Criticize Curbs In Plan to Raise Death Benefits: Proposal Covers Only Designated War Zones,” *The Washington Post*, 2 Feb. 2005: A20.

said during the testimony, “We would do great harm to our servicemen and women, all of whom serve our great nation magnificently, if we were to make such distinctions.”<sup>39</sup> Admiral John Nathman, Vice Chief of Naval Operations, stated, “In terms of taking care of the men and women that they leave behind, there should be no distinction.”<sup>40</sup> General T. Michael Mosely, the Vice Chief of Staff for the Air Force, added, “I believe a death is a death, and our servicemen and women should be represented that way.”<sup>41</sup>

Despite the strong testimony of the service vice chiefs, there was a disparity between the sentiments of the individual services and the senior civilian leadership in the Pentagon. Dr. David S. Chu, Undersecretary for Personnel and Readiness was asked why only certain deaths should be eligible for the increased death gratuity. In response, he referred to the main intent of the initiative. “Our premier objective here is to provide for those who have fallen in Iraq and Afghanistan, to their surviving families.”<sup>42</sup>

Similar to the disparity within the Department of Defense, sentiment about the combat stipulation has divided the Congress as well. For example, of the nine resolutions to increase the death gratuity proposed in the Senate and House of Representatives, only two specified a combat stipulation. Although, the disparity was not necessarily fractured along party lines. Senator Carl Levin, a Democrat from Michigan said, “I obviously support the increases. I think most of us probably do. But I also believe that they should apply to survivors of all members who die on active duty.”<sup>43</sup> Republican Senator John McCain of Arizona echoed Senator Levin’s reaction by saying, “I think we have to make this legislation all-encompassing...All these men and women in the military are in this together, no matter where they are.”<sup>44</sup>

Because the law has only recently taken affect, it is difficult to know what the long term implications of the death gratuity’s combat stipulation will be. In light of the

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<sup>39</sup> Graham, A20.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

testimony of the vice-chiefs of staff, the support of various Congressmen, and a projected extended engagement in the Global War on Terrorism, it is not likely that the combat stipulation will remain un-scrutinized and unchallenged in the future.

## **2. Administrative Difficulties: Determining Eligibility**

Another issue created as a result of Public Law 109-13 is a significantly increased burden in administering the death gratuity program. Public Law 109-13 clearly specifies the requirement for the deceased servicemember to have died in an area designated as a combat zone. The difficulty primarily lies in determining which deaths meet the criteria “while engaged in hazardous service” or “in the performance of duty under conditions simulating war.”<sup>45</sup> While this provision is meant to cover servicemembers who are killed while training and preparing for operations in combat zones, there are any number of scenarios one might consider in which it would be difficult to determine eligibility.

For instance, consider an aviation unit located in the continental United States that is preparing for a deployment to Iraq. While conducting daily operations, an ordnanceman is killed when a 500 pound bomb errantly falls from the pylon he is loading. This situation could have just as easily occurred with a similar aviation unit that was conducting similar operations, but was not deploying to a combat zone. Because the first unit was preparing to deploy to a combat zone and the ordnanceman was conducting the same work he would have done in Iraq, would he have been eligible for the \$100,000 death gratuity? Would an ordnanceman from a similar squadron who was not deploying, yet was killed in an identical manner, be denied the \$100,000 death gratuity? This is just one example of the very difficult determinations that must be made as a result of the combat stipulation in Public Law 109-13.

A staff member for the Assistant Secretary of the Navy, Financial Management and Comptroller, said that the real challenge with the death gratuity increase is not necessarily the funding, but rather the administration of the funds, due to the difficulty in determining who is considered eligible for deaths occurring outside a combat zone.<sup>46</sup>

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<sup>45</sup> Title 10 United States Code, Section 1413a(e)(2)

<sup>46</sup> Staff Member, Assistant Secretary of the Navy, Financial Management and Comptroller, Phone Interview, 22 Aug. 2005.

Senator McCain considered the administration of determining eligibility to be “an enormous gray area.”<sup>47</sup> While the number of deaths in combat zones outweighs the number of deaths that fall within this gray area, there remains a significant potential for lash back from families of servicemembers killed in non-combat zones.<sup>48</sup>

### **3. Changes in Budgeting and Funding**

The death gratuity program is normally budgeted through appropriated funds for the DOD under Military Personnel Programs (M-1). Each individual service is allotted a certain amount for projected death gratuity payments. Due to the eightfold increase in the program’s payments for servicemembers killed in combat, however, the funding for fiscal years 2005 and 2006 will be provided by supplemental appropriation vice the Department of Defense budget. The funding source for fiscal year 2007 remains uncertain.<sup>49</sup>

The changes to the death gratuity program under Public Law 109-13 were intended to be a temporary change during limited periods of combat and higher than normal casualty rates. While President Bush has framed the GWOT as a long-term commitment for the United States, the intent was not to be in a perpetual state of combat, resulting in higher than normal casualties. Due to the uncertain duration the United States will remain in places like Afghanistan and Iraq, it will be very difficult to determine what amount will need to be budgeted to cover the resulting casualties in these locations.

In principle, the combat-related death gratuity amount should be the exception to the program and not the rule. Once combat operations cease in Afghanistan and Iraq, \$100,000 death gratuity payments should fall to nearly zero, as the United States will no longer be sustaining casualties. The reality is that the \$100,000 death gratuity payments will likely be long-term and significant as well as very difficult to predict and budget for as the withdrawal from Afghanistan and Iraq remains unclear.

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<sup>47</sup> Graham, A20.

<sup>48</sup> Staff Member, Headquarters Marine Corps, Programs and Resources, Phone Interview, 16 Aug. 2005.

<sup>49</sup> Ibid.

#### **4. Raising the Fiscal Bar**

The final issue created by the enactment of Public Law 109-13 is unintentional raising of the fiscal bar for the death gratuity program. Although the increase was seen as a temporary and conditional change to the program, “the bar has been raised and it will be difficult to impossible to lower it again.”<sup>50</sup> While the \$100,000 gratuity is merely the exception to the otherwise \$12,000 benefit rule, the temporary increase to \$100,000 has now become the new measure and benchmark for the program.

#### **D. SUMMARY**

This chapter has accomplished two things. First it has identified six primary factors that contributed to or influenced Congress changing the death gratuity program under Public Law 109-13. Second, it has identified four unintended results of the enactment of Public Law 109-13. These factors reflect the most recent changes to the death gratuity program and demonstrate how the onset of war has once again been the catalyst of change for the program.

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<sup>50</sup> Staff Member, Headquarters Marine Corps, Programs and Resources, Phone Interview, 16 Aug. 2005.

## **IV. ALTERNATIVE FUNDING METHOD FOR COMBAT-RELATED DEATHS**

### **A. INTRODUCTION**

The purpose of this chapter is to present an alternative method of providing the same benefit as the increased death gratuity program. Because the increase in the death gratuity program for combat-related deaths has been established by law, the purpose is not to determine if \$100,000 is an appropriate amount or if it should exclude non-combat deaths. This chapter will simply propose an alternative funding source, equitable in amount to the current death gratuity, for deaths meeting the combat-related stipulation.

### **B. THE SERVICEMEMBERS' GROUP LIFE INSURANCE PROGRAM (SGLI) FUNDING ALTERNATIVE**

#### **1. Background**

The Servicemembers' Group Life Insurance program is the government-managed program which provides affordable life insurance to all servicemembers. The program, administered by the Prudential Company, is primarily funded through monthly premiums paid by the servicemember. Premiums are charged on the basis of 6.5 cents per \$1000 of coverage, in \$50,000 increments. Currently, the maximum allowed coverage is \$400,000 at a monthly premium of \$26. "The member pays the normal cost of the insurance (the premium) and the Government pays the cost of all death claims in excess of the level of death claims which would result from normal peacetime service in the uniformed services."<sup>51</sup> The normal peace time death rate is determined by the previous three years of peacetime deaths in the military.

Prior to 2004, when the government paid 433 SGLI claims in excess of the normal peace time death rate, amounting to \$105 million<sup>52</sup>, the last time the government

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<sup>51</sup> Military.com: Benefits and Resources, "Cost of Insurance." 13 Oct. 2005, 28 Oct. 2005  
<<http://www.military.com/Resources/ResourcesContent/0,13964,30875,00.html>>

<sup>52</sup> This amount reflects the maximum coverage of \$250,000 that was available to servicemembers in 2004. Public Law 109-13 also provided for the increase in maximum coverage to \$400,000.

was liable for paying excess SGLI claims was at the end of the Vietnam War in the early 1970s. “The VA indicates that 98 percent of servicemembers participate in SGLI and take out the maximum coverage.”<sup>53</sup>

## **2. Alternative Funding Method**

Currently, the death gratuity program is funded entirely by the government. For each death that meets the combat-related stipulation in Public Law 109-13, the government is solely responsible for paying the \$100,000 benefit. The SGLI program presents a cost-effective alternative for providing the same \$100,000 benefit for combat-related deaths as the death gratuity program. Under the SGLI alternative, the government would be responsible for paying the additional premium for \$100,000 of coverage for all servicemembers deployed to designated combat zones and would also be responsible for paying the \$100,000 policy claims for all deaths in excess of the normal peace time rate.

Table 2 provides a projection of how the costs would compare between a \$100,000 death benefit funded by the death gratuity program and by the SGLI program over the next five years. All the projected figures were extrapolated from Congressional Budget Office Cost Estimates for proposed legislative bills adjusting the death gratuity and SGLI programs.

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<sup>53</sup> Congressional Budget Office Cost Estimate, “H.R. 3200, Servicemembers’ Group Life Insurance Enhancement Act of 2005,” 15 July 2005.



| <u><b>Death Gratuity and Servicemembers' Group Life Insurance (SGLI) Cost Comparison</b></u> |                                  |                          |                          |                          |                          |
|--|----------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
|  | <u><b>2006</b></u>               | <u><b>2007</b></u>       | <u><b>2008</b></u>       | <u><b>2009</b></u>       | <u><b>2010</b></u>       |
| <u><b>Projected Troop Levels in Afghanistan and Iraq</b></u>                                 | 200,000                          | 162,500                  | 125,000                  | 87,500                   | 50,000                   |
| <u><b>Projected Total Deaths in Afghanistan and Iraq</b></u>                                 | 1000                             | 800                      | 650                      | 500                      | 350                      |
| <u><b>Projected SGLI Claims Above Peace-Time Rate</b></u>                                    | 640                              | 427                      | 226                      | 40                       | 0                        |
| <br><u><b>Death Gratuity Expenses</b></u>  |                                  |                          |                          |                          |                          |
| <b>Projected Total Death Gratuity Outlays <sup>1</sup></b>                                   | <b>\$ 100,000,000</b>            | <b>\$ 80,000,000</b>     | <b>\$ 65,000,000</b>     | <b>\$ 50,000,000</b>     | <b>\$ 35,000,000</b>     |
| <br><u><b>SGLI Expenses</b></u>  |                                  |                          |                          |                          |                          |
| <b>SGLI Premiums <sup>2</sup></b>  | <b>\$ 15,600,000</b>             | <b>\$ 12,675,000</b>     | <b>\$ 9,750,000</b>      | <b>\$ 6,825,000</b>      | <b>\$ 3,900,000</b>      |
| <b>SGLI Claims Above Peace-Time Rate <sup>3</sup></b>  | <b>\$ 64,000,000</b>             | <b>\$ 42,700,000</b>     | <b>\$ 22,600,000</b>     | <b>\$ 4,000,000</b>      | <b>\$ -</b>              |
| <b>Projected Total SGLI Outlays <sup>4</sup></b>   | <b>\$ 79,600,000</b>             | <b>\$ 55,375,000</b>     | <b>\$ 32,350,000</b>     | <b>\$ 10,825,000</b>     | <b>\$ 3,900,000</b>      |
| <br><u><b>Potential Savings Through the SGLI Program <sup>5</sup></b></u>                    | <br><b>\$ 20,400,000</b>         | <br><b>\$ 24,625,000</b> | <br><b>\$ 32,650,000</b> | <br><b>\$ 39,175,000</b> | <br><b>\$ 31,100,000</b> |
| <br><u><b>Potential Total Five-Year Savings</b></u>  | <br><u><b>\$ 147,950,000</b></u> |                          |                          |                          |                          |

<sup>1</sup> Projected deaths multiplied by \$100,000.

<sup>2</sup> Projected troop levels multiplied by \$6.50 (premium for \$100,000 coverage) per month for 12 months.

<sup>3</sup> Projected reimbursable claims multiplied by \$100,000.

<sup>4</sup> Sum of premium coverage and excess death payments.

<sup>5</sup> Difference between total Death Gratuity outlays and total SGLI outlays.

Table 2. Death Gratuity and SGLI Cost Comparison<sup>54</sup>

This comparison is calculated based upon three variables—the projected number of troops deployed to Afghanistan and Iraq, the projected number of troops killed in Afghanistan and Iraq, and the projected number of SGLI claims above the normal peace-time rate. The associated expenses are then calculated for each of these variables. The death gratuity expenses were calculated by multiplying the \$100,000 death gratuity by the projected number of deaths. The SGLI expenses were calculated by first multiplying the total number of troops deployed to Afghanistan and Iraq by the annual premium for \$100,000 coverage, which is \$78 per individual servicemember. Next, the number of SGLI claims above the normal peace-time rate was multiplied by the policy amount of \$100,000. This amount was then added to the SGLI premium expense to sum the total expense for the SGLI program.

This comparison demonstrates the potential five year savings of approximately \$148 million over the current death gratuity program by utilizing the SGLI program. The primary advantage of the SGLI method is capitalizing on the cost-sharing nature of the

<sup>54</sup> Refs. Congressional Budget Office Cost Estimates, S. 1042, S. 1235, H.R. 1815, and H.R. 3200.

program with the program's administrator. By paying the premiums for the additional \$100,000 of coverage for all servicemembers in combat zones, the government is only liable for paying the \$100,000 benefit on deaths occurring above the normal peacetime rate, rather than paying \$100,000 for *all* deaths occurring in designated combat zones.

### **3. Other Considerations**

An issue raised by the SGLI alternative is potential for increased costs due to additional administrative burdens. Because this alternative funding method utilizes an existing government program and does not deviate from the tenants of how the program operates and functions, additional administrative costs should not be an issue. The government also routinely provides various special pay and pay-related items for servicemembers deployed to combat zones; such as imminent danger pay, deployment per diem, hardship duty-location pay, family separation allowance, and income tax exemption status. The government is responsible for providing and withdrawing these pay items as the servicemember deploys into and out of combat zones. Therefore, the administrative burden of accounting for the SGLI payment in combat zones should be negligible and no more significant of an impact than any of the mentioned pay-related items.

One potential shortcoming of the SGLI alternative is the added delay in receiving payment. According to an administrative chief with the Marine Corps, SGLI policies are paid within five days upon receipt of necessary paperwork. In contrast, the death gratuity is paid within 48 hours upon receipt of necessary paperwork.<sup>55</sup> Because the purpose of the death gratuity is to provide an immediate cash payment before other death-related benefits are paid, the additional three days could pose a drawback for those families in need of the cash before the arrival of the SGLI payment.

### **4. Congress and the Servicemembers' Group Life Insurance Program**

Congress has recently proposed four bills affecting the Servicemembers' Group Life Insurance program, S. 1042, S. 1235, H.R. 1815, and H.R. 3200, and these have been reviewed by the Congressional Budget Office for cost implications. This appears to be the extent of how much congress has examined and addressed the program. SGLI and

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<sup>55</sup> Administrative Chief, United States Marine Corps, Email Interview, 6 Oct. 2005.

death gratuity have always been separate issues, never being seen as a substitute for the other. While Public Law 109-13 increased both the death gratuity and the maximum SGLI coverage, they were included in separate sections and not directly tied to each other, although, they were related due to their overall benefit increases.

### **C. SUMMARY**

This chapter has presented an alternative method for funding the current death gratuity of \$100,000 for combat-related deaths and has presented potential issues associated with implementing this alternative method. While there is still considerable debate pertaining to the amount of the death gratuity benefit and the combat-related stipulations associated with it, these issues were not considered nor were they addressed in this chapter due to the fact that these items have already been written into law.

The alternative proposed in this chapter does not alter these provisions, but simply provides an alternative funding source in order to provide the same benefit level for the beneficiaries in a more cost effective manner for the government.

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## **V. COMPENSATION AND BENEFITS FOR SERVICEMEMBERS' SURVIVORS**

### **A. INTRODUCTION**

One of the problems with the current compensation and benefit system is that there are numerous benefits and compensations available for survivors, but many of the benefits and compensations are administered through multiple departments and agencies. Currently, there is no central office or site for providing information to survivors about the various benefits available to them.<sup>56</sup> The purpose of this chapter is to provide a consolidated list of all the benefits and various forms of compensation available to survivors of deceased servicemembers and to provide pertinent points of contact as well.

### **B. COMPENSATION BY CASH PAYMENTS**

#### **1. Death Gratuity**

A lump sum payment in the amount of \$12,000, which increases concurrently with pay increases, is available to eligible survivors in the order of spouse, children, parents, and siblings in the event of a servicemember's death while on active duty, or 120 days after discharge from active duty if the cause of death was incurred while on active duty.<sup>57</sup> Deaths occurring in areas designated as combat zones or resulting from combat-related training or hazardous duty are eligible for a lump sum payment of \$100,000.<sup>58</sup>

#### **2. Payment for Unused Leave**

"The servicemember's designated beneficiary, or the statutorily specified next of kin if no beneficiary was designated, is entitled to a payment for any unused leave the servicemember had accrued at the time of death."<sup>59</sup>

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<sup>56</sup> Staff Member, Assistant Secretary of the Navy, Financial Management and Comptroller, Phone Interview, 22 Aug. 2005.

<sup>57</sup> Refs. Title 10 United States Code, Section 1413a(e)(2), and Public Law 109-13, Sec. 1013.

<sup>58</sup> Ibid.

<sup>59</sup> Title 10 United States Code, Section 501(d)(1).

### **3. Servicemembers' Group Life Insurance (SGLI)**

All members of the military are automatically enrolled in SGLI for the maximum benefit of \$400,000, at a monthly premium rate of \$26. Servicemembers may elect to decline or reduce their coverage, but must do so in writing at their unit's respective personnel administrative offices. Reduced coverage is available in increments of \$50,000 at a monthly premium rate of \$3.25. Beneficiaries are eligible for payment regardless of combat or non-combat cause of death, and up to 120 days after the servicemember's discharge from active duty.<sup>60</sup>

## **C. PAYMENT BY ANNUITIES**

### **1. Survivor Benefit Plan (SBP)**

Effective September 10, 2001, all active duty personnel are covered by the Survivor Benefit Plan. Under the SBP, if a servicemember dies while on active duty, the surviving spouse is entitled to an annuity, which is based in part on the deceased's basic pay level and years of service. The interaction between SBP benefits, Social Security benefits, and Dependency and Indemnity Compensation is complex and may result in reduced or offset SBP benefits.<sup>61</sup>

Congressional Research Service report 94-779, *The Military Survivor Benefit Plan: A Description of Its Provisions*, provides a full explanation of these complex interactions. A spouse who remarries before age 55 is no longer eligible for SBP payments.

### **2. Dependency and Indemnity Compensation (DIC)**

The DIC program is administered through the department of Veterans' Affairs and provides a monthly payment to the un-remarried spouse and eligible children of a deceased servicemember. "The DIC benefit is \$993 per month for the surviving spouse and \$247 per month for each child (plus if there are children under the age of 18 they

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<sup>60</sup> Title 38 United States Code, Sections 1965-1979.

<sup>61</sup> Lawrence Kapp, "Operations Enduring Freedom and Noble Eagle: Questions and Answers About U.S. Military Personnel, Compensation, and Force Structure," *Congressional Research Service Report for Congress*, 19 Mar. 2002: 10.

receive an additional \$250 per month for two years) as of January 1, 2005.”<sup>62</sup> In relation to the SBP, payments received through the DIC program bring “about a dollar-for-dollar reduction in SBP benefits.”<sup>63</sup>

### **3. Social Security Survivor Benefits**

The surviving spouses and children of servicemembers who die while on active duty are eligible for Social Security Survivor benefits “based on a number of factors, including the average lifetime earnings of the decedent, the number of quarters the decedent paid Social Security taxes, and certain characteristics of the beneficiary, such as age and relationship to the decedent. Remarriage can have an effect on a widow’s or widower’s benefit.”<sup>64</sup> In 2004 the average monthly benefit for a surviving spouse with one minor child was \$662 and the average benefit of the child was \$607, but rules limiting the maximum family benefit would not necessarily result in \$607 for each additional child.<sup>65</sup>

## **D. BURIAL BENEFITS**

### **1. Expenses Related to Death**

Surviving family members are eligible for a reimbursement of burial expenses up to \$6,900. According to the provisions in Title 10 United States Code 1482, the government is responsible for providing the following services, or reimbursing individuals for these services, “limited to amounts not larger than what would have normally been incurred by the Secretary in furnishing the supply or service concerned.”<sup>66</sup>

- (1) Recovery and identification of the remains.
- (2) Notification to the next of kin or other appropriate person.
- (3) Preparation of the remains for burial, including cremation if requested by the person designated to direct disposition of the remains.
- (4) Furnishing of a uniform or other clothing.

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<sup>62</sup> David F. Burrelli and Jennifer R. Corwell, “Military Death Benefits: Status and Proposals,” *Congressional Research Service Report for Congress*, 23 June 2005: 5.

<sup>63</sup> Burrelli and Corwell, 5.

<sup>64</sup> Kapp, 10.

<sup>65</sup> Burrelli and Corwell, 3.

<sup>66</sup> Ibid, 10.

- (5) Furnishing of a casket or urn, or both, with outside box.
- (6) Hearse service.
- (7) Funeral director's services.
- (8) Transportation of the remains, and roundtrip transportation and prescribed allowances for an escort of one person, to the place selected by the person designated to direct disposition of the remains or, if such a selection is not made, to a national or other cemetery which is selected by the Secretary and in which burial of the decedent is authorized.
- (9) Interment of the remains.
- (10) Presentation of a flag of the United States to the person designated to direct disposition of the remains, except in the case of a military prisoner who dies while in the custody of the Secretary and while under a sentence that includes a discharge.
- (11) Presentation of a flag of equal size to the flag presented under paragraph (10) to the parents or parent, if the person to be presented a flag under paragraph (10) is other than the parent of the decedent. For the purpose of this paragraph, the term "parent" includes a natural parent, a stepparent, a parent by adoption or a person who for a period of not less than one year before the death of the decedent stood in loco parentis to him, and preference under this paragraph shall be given to the persons who exercised a parental relationship at the time of, or most nearly before, the death of the decedent.

## **2. Burial in National Cemeteries**

"Members of the Armed Forces who die while on active duty are eligible for burial in national cemeteries, including Arlington National Cemetery. The government provides a gravesite, opening and closing of the grave, headstone or marker, and maintenance of the site at no cost to the family. Inurnment of cremated remains in a columbarium is an option as well."<sup>67</sup>

## **E. OTHER BENEFITS**

### **1. Housing Benefits**

Survivors of deceased servicemembers are eligible to remain in government quarters, or receive basic allowance for housing if they occupy civilian housing, for up to

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<sup>67</sup> Kapp, 11.



180 days after the servicemember's death.<sup>68</sup> The surviving family is also entitled to one household goods move at the government's expense.<sup>69</sup>

## **2. Medical Benefits**

Surviving spouses remain eligible for TRICARE benefits until they remarry. Surviving children remain eligible for TRICARE benefits until the age 21, or until the age of 23 if they are a full-time student. Family members receive these TRICARE benefits at the active duty dependent rate for the first three years and then at the retiree dependents rate for the remaining time of eligibility, i.e., until remarriage of the spouse or age 21 or 23 for dependent children.<sup>70</sup>

## **3. Commissary and Exchange Benefits**

Surviving spouses are eligible to continue using commissary and exchange privileges as long as they remain unmarried. Similar to TRICARE benefits, surviving children are eligible for commissary and exchange benefits until the age 21, or until the age 23 if they are a full-time student.<sup>71</sup>

## **F. POINTS OF CONTACT FOR BENEFIT INFORMATION**

The following information is provided as a point of contact reference for obtaining information about benefit entitlements.<sup>72</sup>

**Army:** Department of the Army Casualty Operations at toll-free 1-800-626-3317.

**Navy:** Navy Personnel Command (PERS-62), 5720 Integrity Drive, Millington, TN 38055-6200 or call toll-free 1-800-368-3202.

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<sup>68</sup> Title 37 United States Code, Section 403(1).

<sup>69</sup> Ibid, Section 406(f)

<sup>70</sup> Title 10 United States Code, Sections 1071 et. seq.

<sup>71</sup> DOD Directive 1330.17-R, *Armed Services Commissary Regulations* and DOD Directive 1330.9 *Armed Services Exchange Regulations*.

<sup>72</sup> Department of Defense News Release, "DOD Announces Increase in Death Gratuity and SGLI." No. 669-05, 1 July 2005, 10 Aug. 2005 <<http://www.defenselink.mil/releases/2005/nr20050701-3863.html>>.

**Air Force:** Air Force Personnel Center Casualty Services Branch at AFPC/DPFCS, 550 C Street West, Suite 14, Randolph AFB TX 78150-4216 or call toll-free 1-800-433-0048.

**USMC:** HQMC Casualty Office, 3280 Russell Road, Attn: MRPC, Quantico, VA 22134 or call toll-free 1-800-847-1597.

**USCG:** Coast Guard Personnel Services Center, 444 SE Quincy St., Topeka KS 66683-3591; Phone 785-339-3570.

**Office of Servicemembers' Group Life Insurance:** 290 West Mt. Pleasant Avenue, Livingston, NJ 07039; Phone 1-800-419-1473 <sup>73</sup>

## **G. SUMMARY**

The death gratuity program is only one small part of a wide spectrum of benefits available for eligible survivors. It is easy to understand how difficult it may seem for survivors to fully recognize all the benefits they are eligible for and entitled to after the death of their servicemember. This chapter was presented in order to provide an easily accessible summary of entitlement information for the benefit of servicemembers and their families, as well as for the use of commanding officers and their senior enlisted advisors for counseling and advising their junior servicemen and women.

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<sup>73</sup> Veterans Benefits and Services, "SGLI Frequently Asked Questions." 31 Aug. 2005 <<http://www.insurance.va.gov/SgliSite/SGLI/sqli%20faq.htm>>

## **VI. CONCLUSIONS AND RECOMMENDATIONS**

### **A. SUMMARY**

The death gratuity program has had a long history of changes coupled with intense debates. The most recent changes to the program under Public Law 109-13 are no exception. While it is easy to agree that families need to be provided for in the event of the servicemembers' death, the difficulty arises when determining what amount is appropriate and what circumstances of death should be considered.

The most recent debate about the death gratuity was a product of the United States' engagement in the Global War on Terrorism and the casualties that have resulted. This pattern is consistent with the history of the program. However, one significant difference between previous debates and this one was the distinction of combat and non-combat causes of death, and different benefit amounts distinguishing the two. The only other historical distinction between benefit amounts was on the basis of servicemembers' base pay. This distinction was eventually eliminated to make all servicemember's eligible for the same amount regardless of rank or pay.

The enactment of Public Law 109-13 also has impacts that extend beyond the death gratuity program itself. As a result of Public Law 109-13, the military has experienced a change in its culture by further differentiating troops based on their deployment to combat zones. It has also impacted the federal budget by creating another recurring item that is dependent on funding through supplemental appropriations, vice a specific budget item. Because Public Law 109-13 has only recently been implemented, the full impact of its changes has yet to be seen.

### **B. CONCLUSIONS**

The combat-related stipulation is the most contentious point of the current version of the death gratuity program, even more so than the significant increase in the benefit itself. This reveals the main concern at the heart of the matter—the death gratuity debate is more about the implications of changing the culture of the military and less about the

implications of increasing the benefit amount itself. Even so, the government still must take careful consideration when determining the appropriate amount for the death gratuity payment.

It is absolutely true that no amount of money can replace the loss of life, however, the death gratuity is not intended to do so. The government must ensure that the appropriate amount determined for the death gratuity is based on sound reason and not emotions or political showmanship. The government must remain fiscally responsible to provide for servicemembers' survivors *and* to meet the other needs of the military. Because fiscal resources are finite, increased funding for the death gratuity program will invariably result in the reduced funding in another area. The government must remain conscious of these critical tradeoffs.

The potential fiscal creep associated with the death gratuity is also of significant concern. Due to the administrative gray areas associated with determining eligibility, one can easily imagine the potential for discontented family members to protest in order to receive the \$100,000. As a result, congressional representatives, not wanting to be caught on the unpopular side of this very sensitive issue, might feel pressured to propose legislation increasing the death gratuity benefit of \$100,000 for all servicemembers, regardless of combat involvement. This would apply further strain for the program to find additional funding sources, even though the current state of the program is only funded through supplemental appropriations. This scenario, while speculative, is representative of the same public pressure that influenced Congress to adopt the current changes in the death gratuity program, and is not beyond the realm of future possibility.

## **C. RECOMMENDATIONS**

### **1. Adopt the Servicemembers' Group Life Insurance Program Funding Alternative**

Based upon the results of the research, the first recommendation is to fund the current version of the death gratuity program through the Servicemembers' Group Life Insurance program. This program has demonstrated to be a more cost-effective alternative to the current method of funding the death gratuity program. Because of the

cost sharing nature of the SGLI program, the government is able to provide the same benefit to servicemembers without any additional cost to them and at a reduced expense to the government.

This recommendation holds true as long as the current version of the death gratuity program remains in place. If the program is changed again, either in eligibility or in gratuity amount, the cost-effectiveness of the SGLI program must be readdressed in order to take the new variables into consideration. However, under the current law and the current variables presented by the law, the SGLI program is a feasible alternative and a less expensive program for the government to adopt in order to provide a \$100,000 benefit to survivors of servicemembers meeting the combat-related stipulations.

## **2. Re-Establish an Equitable Death Gratuity for all Servicemembers**

The second recommendation is to make the death gratuity payments equitable among all servicemembers regardless of the cause or geographic location of the death. The current combat-related stipulation, while noble in intent, unintentionally creates two classes of servicemembers within the military and undermines the equality and unity of service held by all servicemembers. Every person who joins the military makes the same pledge to defend the Constitution of the United States and to be prepared to give their life in its defense. Therefore, a distinction should not be made in the manner in which the servicemember dies.

Rewarding one death \$12,000 and another \$100,000 creates the impression of a higher value of service than the other. While some deaths certainly display exemplary sacrificial service, as in a servicemember sacrificing his or her life to save the lives of fellow squad members, a different death gratuity is not the appropriate manner in which to honor this exemplary service. The death gratuity is only meant to provide financial support to servicemembers' survivors and should not be confused with a method of rewarding deaths on the basis of varying degrees of service.

The finality of this recommendation returns again to the foundational questions associated with the death gratuity program—how much? As discussed in the scope and limitations of Chapter I, it is difficult to measure and determine an appropriate amount and is beyond the scope of this project. If the amount were determined to be anything

above the standard payment of \$12,000, careful consideration must be given to the fiscal impacts of this decision on the federal budget. Regardless of the specific amount assigned, the culture and unity of the military would be much better served to have an equitable death gratuity for all servicemembers.

### **3. Establish a Central Benefit Information Site**

The final recommendation made by this project is the establishment of a central benefit information site or office. One of the most significant disadvantages with the entire death benefit system is that there is no consolidated office or site that provides information on all the available benefits for families and beneficiaries. As a result, many families simply are not aware or not informed of the many different forms of compensation and benefits available to them after the death of the servicemember. Establishing such a central office or site could greatly reduce the commonly shared misconceptions and confusion about the death gratuity program and other related death benefits.

The purpose of the death gratuity program and all death-related benefits is to provide compensation and support for families when they are in the most need of it. A central information site would only further enhance this purpose by providing information and answering questions for families during an extremely emotional time period.

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